

ESTTA Tracking number: **ESTTA740406**

Filing date: **04/15/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217630
Party	Defendant Hansen, Gary, St. Martin
Correspondence Address	GARY ST MARTIN HANSEN 399 LOWER MAIN WEST JOHNSON, VT 05656-9636 UNITED STATES stdrumr@Gmail.om
Submission	Motion to Strike
Filer's Name	Gary St. Martin Hansen
Filer's e-mail	stdrumr@gmail.com
Signature	/Gary St. Martin Hansen/
Date	04/15/2016
Attachments	Motion to Strike ZXXXXX.pdf(509056 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE  
THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of U.S. Trademark Application

Serial No. 86112261

Mark: It's a Black Hills Thing, you wouldn't understand 'till you been here !

Filed : November 6, 2013

Published April 1, 2014

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Sturgis Motorcycle Rally, Inc.,	)	
	)	
Opposer, )	)	
	)	Opposition No. 91217630
vs	)	
	)	
	)	
Gary St. Martin Hansen,	)	Application No.86112261
	)	
Applicant.	)	
-----	)	

MOTION TO STRIKE TRIAL TESTIMONY DEPOSITIONS

Pursuant to TBMP § 534 Motion to Strike Trial Testimony Deposition

534.02 On Ground of Improper or Inadequate Notice,( 37 CFR §2.123(c)

No.1 the Applicant moves to strike the depositions taken April 6, 2016 by

Sneed law firm for SMRI, Opposition No. 91217630 on the grounds that

TBMP § 534 Motion to Strike Trial Testimony Deposition states:

“ Before the depositions of witnesses shall be taken by a party, due notice

in writing shall be given to the opposing party or parties, as provided in

§2.119(b

No.1 On March 17, 2016, Sneed LLP served SMRI members, documents,

notices of depositions, set for April 6, 2016, at 9:00 am in Rapid City, SD.

No.2 On April 4, 2016 Charles M. Landrum III emailed the Applicant, six documents, listed below.

- Opposer's Pre-Trial Disclosures
- Opposer's Amended Pre-Trial Disclosures
- Notice of Deposition of Dean Kinney
- Notice of Deposition of Clint Brengle
- Notice of Deposition of Karen Simmons
- Notice of Deposition of Gary St. Martin Hansen

No. 3 April 4th was the first time the Applicant ever saw these documents, Although his name was on them all, and there was even a deposition for the Applicant included, which the Applicant missed because ....

No. 4 The Applicant never was served, and in the many phone conversations with Jason Sneed, and Charles M. Landrum III in the past several weeks, no mention was ever made by either attorney's about depositions in Rapid City, nor for the Applicant in Johnson, Vt. on April 4, 2016.

No. 5 The Applicant was not served with any documents by USPS mail, certified or otherwise, nor by the Lamoille County Sheriff's Office in Hyde Park, Vt. having no computer records of the Applicant by name, address, nor any Sneed law firm having anything served in Johnson Vt. .

No. 6 Based on the fact that the Applicant was never served, and that the documents for SMRI member's depositions WERE served to them on March 17, 2016, and that the Applicant did not receive those documents until APRIL 4<sup>TH</sup> 2016, and that the depositions went forward on April 6, 2016, in Rapid City. the Applicant could not have been present for or there to cross-examine etc at the depositions with less than 48 hours notice of the depositions beginning in Rapid City, These are grounds for these depositions to be stricken because of Inadequate Notice !

534.02 On Ground of Improper or Inadequate Notice,

No. 7 the Applicant was thus denied his right to be present and cross examine those who gave depositions in Rapid City, April 6, 2016.

No. 8 Thus the Applicant moves to proceed with this

MOTION TO STRIKE all those depositions taken April 6, 2016 in

Rapid City, by Sneed PLL for SMRI as the Applicant was NOT given adequate notice, and the failure to serve compromised the Applicant's right to cross examine, according to:

TBMP § 534 Motion to Strike Trial Testimony Deposition

534.02 On Ground of Improper or Inadequate Notice, ( 37 CFR §2.123(c)

Below is email from Charles M. Landrum III stating Sneed, now ,  
realizes that the Applicant never received  
any documents or has been served , thus the attached  
documents and email .

Gary,

We have not served any additional documents after those that were attached to my email of April 4, 2016. As for your deposition, we cancelled it because it was unclear whether you were represented by counsel in this matter. Only after we sent you the email cancelling the deposition did we learn that you did not receive the notice in the first place.

We would like to take your deposition at 10:00 am on April 22nd at Johnson State College. Please advise as to whether you will appear voluntarily for that deposition. While you have talked to one or more attorneys, we understand that you continue not to be represented by counsel in this matter. If you have retained an attorney, please forward this message to them and have them contact me immediately.

Sincerely,

**Charles M. Landrum III**

SNEED PLLC, *of counsel*  
610 Jetton St., Suite 120-107  
Davidson, North Carolina 28036

Gary,

In your April 2, 2016 filing with the Board, you indicate that you did not receive the notice of your deposition. A copy of that document is attached, along with the following other documents that we served weeks ago in this proceeding:

- Opposer's Pre-Trial Disclosures
- Opposer's Amended Pre-Trial Disclosures
- Notice of Deposition of Dean Kinney
- Notice of Deposition of Clint Brengle
- Notice of Deposition of Karen Simmons

Each of these documents was served to your address on file with the Trademark Trial & Appeal Board, as noted in the certificate of service accompanying each document, which you also used in your April 2, 2016 filing:

GARY ST MARTIN HANSEN

399 LOWER MAIN WEST  
JOHNSON, VT 05656

To ensure that there are no issues with the service of documents, please confirm that this address is current and that you will receive mail sent to this address. If this address is not current, please provide the address at which you currently will receive mail.

Sincerely,

**Charles M. Landrum III**

SNEED PLLC, *of counsel*  
610 Jetton St., Suite 120-107  
Davidson, North Carolina 28036

Respectfully Submitted

Gary St. Martin Hansen

Pro Se Representation

399 Lower Main West  
Johnson, Vermont 05656  
Tel: 206 319 8158

Dated: April 14, 2016

CERTIFICATE of FILING

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The undersigned certifies that this correspondence is being filed via electronics means by  
Filing with the Electronic System for Trademark Trial and Appeals.

Dated April 14 ,2016

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Gary St. Martin Hansen

CERTIFICATE of SERVICE

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The Undersigned counsel of record hereby certifies that a copy of the foregoing

TBMP § 534 Motion to Strike Trial Testimony Deposition  
534.02 On Ground of Improper or Inadequate Notice, ( 37 CFR §2.123(c)

was served by placing a copy in US Mail, postage, prepaid

this 14th day of April ,2016 and addressed to the following:

JASON SNEED PLLC  
610 Jetton St. Suite 120-107  
Davidson, North Carolina 28036  
Tel: 704 779 3611

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Gary St. Martin Hansen  
stdrumr@gmail.com